

REMARKS

Status of the Claims

Claims 11-22 are pending in this application.

Claims 11-22 are rejected.

Rejection of Claims 11-22 Under 35 U.S.C. § 103

The Advisory Action dated May 15, 2005 indicated that claims 11-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,880,538 issued to Schultz (hereafter Schultz) in view of U.S. Patent No. 5,820,245 issued to Desmond, et al. (hereafter Desmond). The Advisory Action indicated that the motivation or suggestion for combining Schultz and Desmond is based on the knowledge of one having ordinary skill in the art. Furthermore, the Advisory action stated that specific evidence for making the proposed combination does not have to be cited because a person having ordinary skill in the art would recognize that the combination of the references would be advantageous. Applicant now respectfully traverses the rejection of claims 11-22.

In order for an obviousness rejection to be maintained a person of ordinary skill in the art at the time of the invention must have been motivated to combine the references in order to arrive at the claimed invention. The Advisory Action stated that even though Schultz generally describes a capacitance switch for exterior automotive applications, a person having ordinary skill in the art would recognize the other uses of such a switch. Thus validating the argument that Schultz could be combined with the manual switch taught by Desmond. However, no evidence from the specifications of the references were use to support the combination of the references.

Applicant respectfully traverses the rejection made in the Advisory Action and submits new supporting evidence in the form of a declaration by Mr. Volker Zipf. With regard to Schultz, Applicant maintains that this patent teaches or suggests a proximity

switch being used in a door lock, Col. 3, Lines 30-34, and windshield wipers, Col. 4, Lines 62-64. See also Declaration ¶ 6. Claim 11 of the present invention contains a switching device for an interior mirror module. In support of this argument the attached declaration concludes that: “[m]y invention claims a switching device for an interior mirror module. The switching device is activated without touching a mechanical switch by having a sensor in the mirror housing...” Declaration ¶ 8. This is not the same as a proximity switch being placed in a door handle in order to unlock a door handle. This is also not the same as having a proximity switch on the exterior of a vehicle to detect water in order to activate the windshield wipers.

The secondary reference, Desmond, discloses a rearview mirror light that is controlled by a mechanical switch. Declaration ¶ 7; Desmond Col. 1, Lines 25-30, 59-60. Claim 11 of the present invention contains a sensor where the switching process is activated by the approach of a non-metallic object. In support of this argument the attached declaration concludes: “[t]he sensor activates the switch when it detects a non-metallic object moving towards the sensor.” Declaration ¶ 8. This is not the same as a mirror housing having a mechanical switch that needs to be physically moved in order for the light to be activated. It would not have been obvious for one of ordinary skill in the art at the time of the invention to modify the manual switching device of Desmond to use the sensor as taught by Schultz. Declaration ¶ 10.

As presented above, a person having ordinary skill in the art would not be motivated to combine the references in the manner suggested by the Advisory Action. The declaration of Mr. Zipf provides evidence that this combination of references can not be used to render the invention obvious at the time of the invention. Applicant now respectfully requests the removal of the rejection of independent claim 11.

Finally, Applicant respectfully maintains the position that claims 12-22 are not obvious under the proposed combination of Schultz and Desmond since claims 12-22 are directly or ultimately dependent upon independent claim 11. In other words, if claim 11 is found to be patentable, it is the Applicant's position that claims 12-22 will also be patentable because they include by their dependency the combination of elements, as such claim 11 is believed to be patentable. Therefore, Applicant respectfully requests the removal of the rejection of claims 11-22 in view of the combination of Schultz and Desmond.

CONCLUSION

It is respectfully submitted that in view of the above amendments and remarks claims 11-22, as presented, are patentably distinguishable because the cited patents, whether taken alone or in combination, do not teach, suggest or render obvious, the present invention. Therefore, Applicant submits that the pending claims are properly allowable, which allowance is respectfully requested.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 364-4300 if any unresolved matters remain.

Respectfully submitted,

WARN, HOFFMANN, MILLER & LALONE, P.C.
Attorneys for Applicant(s)

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By: 

Philip R. Warn, Reg. No. 32775
Gregory L. Ozga, Reg. No. 53425

P.O. Box 70098
Rochester Hills, MI 48307
(248) 364-4300

PRW:GLO:SPR:cah